
Guide to Survivor Benefits for Public Employees

[REVISED AUGUST, 1999]

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION
JOSEPH E. CONNARTON, *EXECUTIVE DIRECTOR*



WWW.STATE.MA.US/PERAC

This guide is designed to familiarize you with the benefits to which eligible survivors of public employees, who were members of Massachusetts contributory retirement systems, are entitled. The contents do not affect the contractual rights between a system and its members and, in the case of any conflict, Chapter 32 of the Massachusetts General Laws and the regulations promulgated by the Public Employee Retirement Administration Commission shall govern. This guide reflects changes and amendments to the law through the 1998 session of the Massachusetts General Court.

To gain a basic understanding of each subject area, please read all the questions and answers for that area. Officials of your retirement board are available to further explain the law and to counsel you about your rights and benefits.

For procedures applicable to public employee retirement generally and to disability retirement specifically members should refer to PERAC's Massachusetts Public Employee Retirement Guide and PERAC's Guide to Disability Retirement for Public Employees.

GUIDE TO SURVIVOR BENEFITS FOR PUBLIC EMPLOYEES
Table of Contents

INTRODUCTION	1
RETIREMENT ALLOWANCE	2
Annuity	2
Pension	2
Factors	2
OPTIONS FOR RETIREES	2
Making a Choice	3
Spousal Acknowledgment	3
Option A	4
Option B	4
Option C	4
Option C “Pop Up”	5
Effect of Divorce on Option C Beneficiary	6
SOCIAL SECURITY	6
RETURN OF ACCUMULATED DEDUCTIONS	6
OPTION D	7
Beneficiaries	7
Permanency of Choice	8
Amount of Benefit	8
Election by Spouse	8
GUARANTEED MINIMUM ALLOWANCE	9
Additional Allowance For the Benefit of Children	10
Allowance Limitation	10
Remarriage or Death of Spouse	10
Member’s Death With Less Than Two Years of Service	11
INACTIVE MEMBERS	11
Survivors of Inactive Members	11
ACCIDENTAL DEATH BENEFITS	12
Notice of Injury	12
MEMBER-IN-SERVICE ACCIDENTAL DEATH SURVIVOR BENEFITS	12
Return of Accumulated Deductions	12
Pension Benefit	13
Eligible Beneficiaries of Pension Benefit	13
Additional Pension Benefit	13
Maximum Benefit Payable	14
Remarriage of Surviving Spouse	14

GUIDE TO SURVIVOR BENEFITS FOR PUBLIC EMPLOYEES

Table of Contents

Continued

Eligibility of Other Family Members	14
Receipt of Workers' Compensation Benefits	14
SURVIVOR BENEFITS for ACCIDENTAL DISABILITY	15
RETIREES	
Death Related to Accidental Disability Retirement	15
Pension Benefit	15
Eligibility of Other Family Members	15
Return of Accumulated Deductions	16
Death Unrelated to Accidental Disability Retirement	16
Allowance	16
Return of Accumulated Deductions	17
DEATH OF FIREFIGHTERS, POLICE OFFICERS AND	
CORRECTIONS OFFICERS IN THE LINE OF DUTY	17
Pension Benefit	18
Return of Accumulated Deductions	18
Lump Sum Benefit	18
PENDING DETERMINATION OF ACCIDENTAL DEATH	
BENEFITS	18
THIRD PARTY RECOVERY	19
APPEALS	19
KEY ADDRESSES AND PHONE NUMBERS	20

INTRODUCTION

Membership in a contributory retirement system is mandatory for nearly all Massachusetts public employees who are regularly employed on a full time basis. Membership status for public employees is defined in two ways in Chapter 32 of the Massachusetts General Laws: “member-in-service”, and “member inactive”.

Any member who is regularly employed in the performance of his/her duties is considered a member-in-service. Member-in-service status continues until death or separation becomes effective by reason of retirement, resignation, failure of re-election or re-appointment, or removal or discharge from office or position.

Members-in-service become members-inactive when they:

- Retire and receive a retirement allowance; or
- When their employment has been terminated and they are entitled to any present or potential retirement allowance or a return of accumulated payroll deductions; or when they are on an authorized leave of absence without pay which extends for more than a year and which is for a reason other than retirement board duties.

Massachusetts contributory retirement systems offer several types of survivor benefits to their members:

- Survivor benefits that are based on a member selecting Option B or C upon retirement. Survivor benefits are not payable under Option A (Please see pages 5-8 of this booklet for a discussion about Options A, B and C.);
- Survivor benefits for members who select Option D during their membership-in-service (Please see pages 10-14 of this booklet for a discussion about Option D.);
- Survivor benefits for members-in-service who die prior to retirement;
- Survivor benefits for inactive members;
- Survivor benefits for accidental disability retirees;
- Survivor benefits for firefighters, police officers, corrections officers and public prosecutors who are killed or who sustain injuries which result in death while in the performance of their duties.

The amount of benefits payable in any particular instance may depend on a number of factors including the length of the member’s service, the eligibility of the member’s immediate family members, and the cause and date of the member’s death.

RETIREMENT ALLOWANCE

Public employee retirement allowances consist of two parts: an annuity and a pension.

Annuity

What is an annuity?

The payroll contributions that have been deducted during the course of a member's creditable service are deposited in an annuity savings fund by the member's retirement board. The interest that accrues on these contributions is also credited to the member's individual account. That part of the member's retirement allowance that is based on the total amount in his/her annuity savings account on the date of retirement is the annuity. It generally accounts for approximately 15-20 percent of a retirement allowance.

Pension

What is a pension?

A pension is the difference between the retirement allowance specified by law and the amount provided by employee contributions and retirement system investment earnings.

Factors

What factors generally affect the amount of a retirement allowance?

The amount of a public employee retirement allowance depends on

- The member's age,
- The member's length of creditable service,
- The member's average annual rate of regular compensation, and
- The member's group classification.

OPTIONS FOR RETIREES

"Option" is the term used to describe how a retirement allowance is allotted. The allowance must be paid to the member in lifetime monthly payments, but the apportionment of those payments will differ depending upon the member's option selection. Option selection also determines what benefits, if any, will be paid to survivors after a retiree's death.

Making a Choice

What factors should influence a member's choice of option?

The member's health and age at retirement, income from other sources, financial obligations, and the need to provide for others who survive the member are the factors that should be considered carefully.

Are there any restrictions on a member's election of an option?

There are no restrictions. Any member is free to select Option A, Option B or Option C.

When must a member make select an option?

A member must choose an option before the date his/her allowance becomes effective. Retirement board staffers are available to thoroughly discuss options with the member prior to that date. If a member refuses or fails to select an option before the date his/her retirement becomes effective, the law provides that the member will be retired under Option B.

Is a member permitted to change his/her option selection?

A member is not permitted to change his/her option selection after his/her retirement becomes effective.

Spousal Acknowledgment

Must a member's spouse acknowledge the member's option selection?

Yes, a married member's Choice of Retirement Option form must reflect the signature of the member's spouse in acknowledgement of his/her understanding of the option chosen. If a married member files a Choice of Retirement Option form that has not been acknowledged by his or her spouse, the member's retirement board is required to notify the member's spouse within fifteen days by registered mail of the option selection and of the spouse's right to sign and return an acknowledgment of receipt and understanding of such information.

An unacknowledged option selection shall not take effect unless the spouse fails to submit the signed spousal acknowledgment within thirty days of receipt of the information regarding the option selection from the retirement board. The effective date of the member's retirement will not be affected by the requirement that spousal acknowledgment be obtained.

Options Available at Retirement

Option A

Election of Option A means that the member will receive the full retirement allowance in monthly payments as long as he/she lives. All allowance payments will cease upon the member's death and no benefits will be provided to the member's survivors.

Option B

Option B provides a member with a lifetime allowance which is 3% to 5% less per month than the allowance payable under Option A. The annuity portion of a member's allowance is reduced to allow a potential benefit for his/her beneficiary or beneficiaries. Upon the member's death, his/her surviving beneficiary or beneficiaries of record, or if there are no beneficiaries living, the person or persons appearing in the judgment of the member's retirement board to be entitled thereto, will be paid the unexpended balance of the member's accumulated total deductions, if any, from the annuity reserve account in one lump sum.

How soon could a member's retirement contributions be depleted?

Although a member's retirement allowance is not reduced because of the depletion of his/her accumulated deductions, it is generally the case that his/her deductions are used up within twelve to fifteen years of his/her retirement, depending upon the member's age at retirement. In the event of the member's death, any balance that does remain will be paid to his/her Option B beneficiary or beneficiaries. If there is no balance remaining, no payment will be made to a beneficiary.

Is a member's choice of a beneficiary limited under Option B?

Under Option B, a member may designate any person(s), or charity or institution as his/her beneficiary or beneficiaries. A member may, at any time after retirement, change his/her Option B beneficiary designation.

Option C

Option C is also known as the joint and last survivor allowance. Selecting this option means that the allowance payments that the member would receive during his/her lifetime would be approximately 20% less than those received under Option A or Option B. Upon the death of the member, his/her designated beneficiary will be paid an allowance for the remainder of his or her lifetime. That allowance will be equal to two-thirds of the allowance which was being paid to the member at the time of death.

How are the monthly allowance payments calculated under Option C?

The monthly allowance payable under Option C depends upon life expectancy factors for the member and the member's designated beneficiary.

Who may be named as a beneficiary under Option C?

Only one beneficiary may be named under Option C. The eligible beneficiaries are limited to a member's spouse, the member's former spouse (provided he or she has not remarried at the time of being designated as the Option C beneficiary), the member's child, parent, or sibling.

Is a member permitted to change his/her Option C beneficiary designation?

After a member's retirement has become effective, the Option C beneficiary designation cannot be changed.

If a member's spouse dies after receiving allowance payments under Option C, will benefits then be payable to the member's children?

Each child would be eligible to receive an equal share of the allowance that the spouse had been receiving. Payments would be made to the legal guardian of each child and would cease upon each child's 18th birthday.

Option C "Pop Up"

If a member is pre-deceased by his/her beneficiary, how will his/her Option C allowance payments change?

If the member's allowance was as the result of an application filed on or after January 12, 1988 and his/her Option C beneficiary dies on or after that date and before the member dies, the member would thereafter be paid the full retirement allowance he/she would have received had he/she originally selected Option A. (This conversion is commonly referred to as the Option C "Pop-Up".) Any cost-of-living increases that are granted after the member's Option C retirement becomes effective will be reflected in the newly established Option A allowance. All payments will cease upon the member's death.

For retirees whose retirement became effective before January 12, 1988 and who chose Option C and who are predeceased by their beneficiaries, extension of the Option C "Pop-Up" benefit is determined by their respective retirement board's (and relevant "legislative body's") acceptance of Section 288 of Chapter 194 of the Acts of 1998. Under Section 288, such adjustments must be made prospectively from July 1, 1998. No payment can be made relative to the period, if any, from the date of the death of the beneficiary to July 1, 1998.

Effect of Divorce on Option C Beneficiary

Does divorce following retirement change the status of a member's former spouse as his/her Option C beneficiary?

If a member names his/her former spouse as his/her Option C beneficiary during the time they were married, the former spouse will continue to be the Option C beneficiary even if they are divorced after the member's retirement.

SOCIAL SECURITY

Benefits paid under provisions of Chapter 32 will offset Social Security benefits in a variety of circumstances. Although a Massachusetts retirement allowance cannot be reduced as a result of other retirement benefits, Social Security benefits might be reduced.

Individuals who are eligible to receive benefits from a contributory retirement system and the federal Social Security System as a result of their own employment or, a combination of their own employment and benefits as a spouse or a surviving spouse, should contact the local Social Security Office for detailed information.

RETURN OF ACCUMULATED DEDUCTIONS

In all cases, will a member's designated beneficiary receive the member's accumulated deductions should the member die in service?

When an individual becomes a member of a Massachusetts contributory retirement system, he or she is asked to designate a beneficiary who will receive the member's accumulated retirement deductions in one sum if he or she dies as a member-in-service. This designation is generally effective unless the member leaves survivors whose rights are superior by law.

Is a member limited in his/her choice of a beneficiary?

There are no limitations on who members may choose as their beneficiary (ies), except that minors must designate a relative.

Is a member permitted to change his/her beneficiary designation?

The member may change his/her designation at any time by signing a retirement board form.

What if the designated beneficiary predeceases the member?

If there is no living beneficiary, the member's retirement board shall determine the person(s) who are entitled, in their judgment, to payment.

OPTION D

*If a member dies **before retiring**, can the member provide for payment of monthly benefits to a surviving family member?*

Members have the right to choose an Option D beneficiary upon becoming a member or at any point prior to retirement. Option D provides a designated beneficiary with an allowance for life.

Beneficiaries

Who may a member designate as his/her Option D beneficiary?

Members may designate only one beneficiary. The eligible beneficiaries are limited to a member's spouse, the member's former spouse (provided he or she has not remarried at the time of being designated as the Option D beneficiary), the member's child, parent, or sibling.

May a member change his/her Option D beneficiary designation?

A member may change his/her Option D beneficiary designation by giving written notice on a prescribed form to his/her retirement board. It is important to remember whom one's Option D beneficiary is because changes in personal circumstances do not automatically alter the designation. The Option D beneficiary remains the same until a new beneficiary is designated in the prescribed manner.

Can a beneficiary make any "make-up" payments that a member had been eligible to make?

If a member's accumulated deductions do not reflect all of his/her creditable service, the member's Option D beneficiary may make "make-up payments" to establish a more complete record of creditable service. A beneficiary has 90 days in which to act from the date the retirement board mails a notice regarding his or her right to act.

Permanency of Choice

Is a member permitted to change his/her mind about electing Option D?

A member can cancel his/her election of Option D by giving written notice to his/her retirement board.

Under what circumstances is a member's Option D election superceded?

An Option D designation has a serious and lasting legal impact unless:

- A member cancels it; or
- A member's designated beneficiary predeceases the member; or
- A member retires; or
- A member's surviving beneficiaries are eligible to receive an accidental death benefit; or
- A member's eligible surviving spouse elects to receive a benefit, even if the member did not choose the spouse as his/her Option D beneficiary.

Amount of Benefit

How is an Option D benefit calculated if a member dies before his/her 55th birthday?

The designated beneficiary is entitled to receive two thirds of the Option C allowance the member would have been entitled to receive if the member had attained age 55 and retired on the date he /she died. The number of years of service that the member had been granted when he/she died plus any service for which the beneficiary makes a "make-up" payment will be used in the calculation.

What is the Option D benefit if a member's death occurs on or after his/her 55th birthday?

The designated beneficiary is entitled to receive two thirds of the Option C allowance the member would have received if the member had retired on the date he/she died.

Election by Spouse

*May a member's spouse **elect** to receive Option D benefits?*

A member's spouse may elect to receive Option D benefits if:

- the member dies as a member in service and has nominated the spouse as beneficiary of his/her accumulated retirement deductions, or,
- the member has been married to the spouse for at least one year and dies as a member in service with at least two years of creditable service.

This type of spousal election is permitted even if the member had chosen another individual as his/her Option D beneficiary. The member must be living with his/her spouse at the time of death or if the couple is living apart, it must be for a justifiable cause other than the spouse's desertion or moral turpitude.

What if a member has already retired under Option A or B, is there a circumstance in which his/her spouse could elect to receive Option D benefits?

If the member dies within 30 days of retirement, the spouse can elect to receive Option D benefits. The member must be living with his/her spouse at the time of death or if the couple is living apart, it must be for a justifiable cause other than the spouse's desertion or moral turpitude.

What benefits are payable to a member's spouse in these situations?

The member's spouse would receive two thirds of the Option C allowance the member would have received if he/she had retired on the date of his/her death. If the member was under age 55 on the date of death, the allowance would still be calculated as if the member had attained age 55. If the member was age 55 or older, the allowance would be calculated using the member's actual age on the date of death.

How and when may a member's spouse elect Option D benefits?

The retirement board will notify a member's spouse of his or her right to elect Option D benefits. A spouse has 90 days from the date this notice is mailed to elect Option D benefits. To be effective, the election must be made on a prescribed form filed with the retirement board within this period.

What happens if a surviving spouse does not elect Option D benefits?

If the member had not named another individual as his/her Option D beneficiary, the member's accumulated deductions would be paid to the surviving beneficiaries of record or, if there are none, to the member's surviving spouse in one sum.

If the member had named another individual as his/her Option D beneficiary, that individual would receive a lifetime allowance (instead of a lump sum payment of accumulated deductions being made to the surviving beneficiaries of record).

GUARANTEED MINIMUM ALLOWANCE

Is a member's spouse entitled to minimum allowance?

A member's surviving spouse is guaranteed a minimum allowance if the member designated the spouse as his/her beneficiary or if the spouse elected to receive Option D benefits and:

- the member dies as a member-in-service, and
- was married for at least one year, and
- had completed at least two years of creditable service

The couple must be living together at the time of the member's death or if they are living apart, it must be for a justifiable cause other than the spouse's desertion or moral turpitude.

What is the minimum allowance?

The spouse would receive \$250.00 per month or \$3,000.00 annually.

Additional Allowance for the Benefit of Children

If a spouse is receiving a guaranteed minimum allowance, is there any additional benefit for the children?

The spouse can receive an additional allowance of \$120.00 a month (or \$1440.00 annually) for the benefit of the first eligible child and \$90.00 per month (or \$1080.00 annually) for each additional eligible child.

When does this additional allowance terminate?

Payments to the spouse for the benefit of the children will continue until each child's 18th birthday. If a child is a full-time student at an accredited educational institution, benefits will be extended until the child's 22nd birthday. Benefits terminate upon the date a child ceases to be a full-time student or upon a child's marriage, whichever first occurs. Benefits are halted upon a child's adoption or death. There is no termination of benefits for a child who is physically or mentally incapacitated from earning on the date of the member's death.

Allowance Limitation

Is the amount of the allowance limited?

The Option D benefit, together with amounts payable to a surviving spouse for the benefit of children, cannot exceed the annual rate of regular compensation the member was receiving on the date of his/her death.

Remarriage or Death of Spouse

What happens if the member's spouse remarries?

If the spouse remarries, he or she will no longer be eligible for the minimum allowance. After remarriage, the spouse would instead be eligible to receive two-thirds of the Option C allowance that the member would have received if the member had retired on the date of his/her death, plus any applicable cost-of-living adjustments. If the member was under age 55 when he/she died, the surviving spouse would receive two-thirds of the Option C benefit the member would have received if he/she retired at age 55.

What benefits are payable to a member's eligible children if the member is unmarried or the spouse dies after receiving some benefits?

The allowance which would have been payable to the spouse, and the additional allowance for the benefit of the children, will be paid to the surviving eligible children through a legally appointed guardian.

Member's Death with Less than Two Years of Service

What benefits are payable if an individual dies as a member with less than two years of service?

If a member dies with less than two years of service and has designated an Option D beneficiary, the nominated eligible beneficiary would receive two-thirds of the Option C allowance the member would have received if the member had retired on the date of his/her death. If the member is under age 55 on the date he or she dies, the allowance would be calculated as if the member had attained age 55. If the member's death occurs at age 55 or older, the allowance would be calculated using the member's actual age on the date of death.

INACTIVE MEMBERS

When is a member considered to have inactive status?

Members-in-service become members-inactive when their employment terminates and their accumulated deductions remain in the system of which they were an active member; or when they are on an authorized leave of absence (non-medical) without pay which extends for more than a year or which is for a reason other than retirement board duties.

The law provides for the extension of particular benefits to the beneficiaries of members-inactive whose death occurs prior to retirement.

Survivors of Inactive Members

If an individual is an inactive member when he/she dies, what benefits are payable to the member's spouse?

The spouse has the same choice as the surviving spouse of a member-in-service whose death occurs prior to retirement. The eligible spouse may elect to receive an Option D allowance. Please refer to the section of this guide pertaining to Option D. If the spouse fails to elect the Option D allowance, the accumulated deductions will be paid to the member's surviving beneficiaries of record or, if there are none, to the surviving spouse in one sum.

If an individual dies as an inactive member, is his/her spouse entitled to a minimum allowance?

No minimum guaranteed allowance would be payable to the spouse nor can any additional allowance be paid for the benefit of any children.

ACCIDENTAL DEATH BENEFITS

When is an accidental death benefit payable?

A member's eligible beneficiary is entitled to an accidental death benefit if the member's death is the natural and proximate result of a personal injury sustained or hazard undergone while in the performance of his/her duties and without serious and willful misconduct on the member's part.

Special provisions are applicable to firefighters, police officers, corrections officers, and public prosecutors. (Please refer to the section of this guide entitled, "Death of Firefighters, Police Officers, Corrections Officers and Public Prosecutors In The Line of Duty.")

Notice of Injury

Should a member notify his/her retirement board if he/she is injured on the job?

If a member is injured or exposed to a hazard on the job, the member should notify both his/her employer and retirement board immediately. This establishes the time, place, and occurrence of the accident for future reference.

If a member dies from a job-related injury or exposure to a hazard more than two years after the occurrence of the injury or exposure, accidental death benefits will be denied unless a notice was filed with the retirement board within 90 days of the injury or exposure or, if there are records of workers' compensation payments for the same injury or, if the member is not covered by workers' compensation, but there is a record of such injury or hazard undergone on file in the official records of his/her department.

MEMBER-IN-SERVICE ACCIDENTAL DEATH SURVIVOR BENEFITS

Return of Accumulated Deductions

If a job-related accident or exposure to a hazard causes the death of a member-in-service, what happens to his/her accumulated deductions?

The member's accumulated deductions and related interest will be paid to his/her beneficiaries of record in one sum.

The beneficiaries who receive the accumulated deductions are not necessarily the same as the beneficiaries eligible to receive the pension portion of the accidental death benefit.

Pension Benefit

What is the pension benefit if the death of a member-in-service is caused by a job-related accident?

The eligible beneficiary of the member's pension benefit will receive a yearly pension equal to either 72% of the annual rate of regular compensation, which the member had been earning on the date of injury or 72% of the average annual rate of regular compensation for the 12-month period for which the member last received regular compensation, whichever is greater.

Eligible Beneficiaries of Pension Benefit

Who is the primary beneficiary of the pension benefit?

The primary beneficiary of an accidental death benefit pension is the deceased member's spouse. The spouse is eligible to receive a pension if the spouse was living with the member at the time of his/her death or was living apart from the member for justifiable cause. Payment of the pension must cease upon the spouse's remarriage.

Could any eligible surviving children receive pension benefits?

If the member leaves no eligible spouse or, if the spouse remarries, pension payments would be paid instead to a guardian for the benefit of the surviving eligible children.

Who is an eligible child?

Any member's child is eligible who is under the age of 18 and unmarried or who is over the age of 18 and physically incapacitated from earning on the date of the member's death.

When will children cease to be eligible to receive the aforementioned pension payments?

Payments will be made as long as the children remain unmarried and under age 18 or as long as they remain physically or mentally incapacitated from earning.

Additional Pension Benefit

What is the additional pension benefit if a member's death is caused by a job-related accident?

An additional yearly pension of \$312.00 will be paid for the benefit of each of the surviving eligible children. To be eligible, a child must be unmarried, under the age of 18 or 21 if a full-time student at an accredited educational institution, or be physically or mentally incapacitated from earning on the date of the member's death.

Maximum Benefit Payable

Is there a maximum benefit payable?

The total yearly amount, including the 72% pension and any additional pension for the benefit of eligible children, may not exceed the greater of two rates: the member's annual rate of regular compensation on the date of injury or the salary the member received during the last year of regular compensation.

Remarriage of Surviving Spouse

If a member's surviving spouse remarries or dies, could the member's surviving children become eligible to receive the pension benefits the spouse had been receiving?

If the spouse had been receiving the 72% pension before his/her remarriage or death, that pension plus each child's \$312.00 additional pension benefit could continue to be accepted by a court-appointed legal guardian on behalf of the surviving eligible children.

Eligibility of Other Family Members

Can pension benefits be paid to other family members if a member leaves no eligible spouse or children?

If a member leaves no eligible spouse or children, the pension benefit would be paid to his/her totally dependent father or mother. If the parents are deceased or are not totally financially dependent upon the member, the pension benefit would be paid to any totally financially dependent unmarried or widowed sibling provided he/she was living with the member when the member died. Pension payments will continue as long as the beneficiary or beneficiaries survive, do not marry or remarry and remain unable to support themselves.

Receipt of Workers' Compensation Benefits

Is a pension benefit that is received by a member's beneficiaries affected by their receipt of the member's Workers' Compensation benefits?

Workers' Compensation payments that are received by a member's legal representative or dependents, on account of the member's death from a job-related injury or hazard, will offset and reduce the pension portion of an accidental death benefit. They do not affect any right such beneficiaries may have to a return of the member's accumulated deductions.

SURVIVOR BENEFITS for ACCIDENTAL DISABILITY RETIREES

Death Related To Accidental Disability Retirement

Is a member's beneficiary eligible to receive an accidental death benefit if the member's death, after retirement, is directly related to the member's accidental disability retirement?

If the member's death, after retirement, is found by the retirement board to be the natural and proximate result of the injury or hazard which was the basis of the member's accidental disability retirement, the member's spouse, or if there is no spouse, an eligible family member, may petition the retirement board for an accidental death benefit.

Pension Benefit

How is the amount of the accidental death benefit determined?

An accidental death benefit involves continued payment of the pension portion of the allowance the member had been receiving at the time of death, taking into account such factors such as allowances for eligible children, cost-of-living raises, and any retroactive collective bargaining raises that the member may have received after retirement. It will also include payment of any remaining accumulated deductions in one sum to the designated beneficiary if the member retired under Option B.

However, please note that if the member retired under Option A or C, his/her beneficiary would not be entitled to receive the member's remaining balance from the Annuity Savings Fund.

Is the accidental death benefit affected by amounts received from Workers' Compensation?

Amounts received under Workers' Compensation offset and therefore reduce the pension portion of the accidental death benefit. They do not affect the payment of remaining accumulated deductions.

Eligibility of Other Family Members

Will pension payments be made to other family members if a member leaves no eligible spouse or eligible children?

If a member leaves no eligible spouse, pension payments will be made to the member's eligible children. If there are no eligible children, the pension benefit will be paid to the member's dependent father or mother. If the parents are deceased or were not totally financially dependent upon the member, pension payments will be paid to any totally financially dependent unmarried or widowed sibling if the member was living with him/her at the time of death. Pension payments will continue as long as the beneficiary or beneficiaries survive, do not marry or remarry and remain unable to support themselves.

Return of Accumulated Deductions

After a member's death, who is eligible to receive the balance of his/her accumulated deductions?

If the member selected Option B on retirement, the member's beneficiaries are entitled to a return of the member's accumulated deductions and related interest as of the member's date of death. The beneficiaries who receive the accumulated deductions are not necessarily the same individuals as the beneficiaries who are eligible to receive the pension portion of the accidental death benefit.

Death Unrelated To Cause of Accidental Disability Retirement

Allowance

What benefits are payable if a member's death, after retirement, is NOT found to be a direct result of the injury or hazard that caused the member's accidental disability retirement?

If such a member retired before November 7, 1996, his/her spouse is entitled to receive an allowance of \$6,000 per year as long as the spouse does not remarry. However, if such a member retires on or after November 7, 1996, the member is permitted to select Option C upon retirement to provide an allowance for his/her spouse (this allowance would be paid instead of the \$6,000 allowance).

Are surviving spouses of other deceased retirees also eligible to receive this benefit?

The surviving spouses of ordinary disability retirees who retired before December 30, 1971 and who die after January 1, 1973 are entitled to receive an allowance of \$6,000 per year as long as they don't remarry. If a member retires for ordinary disability on or after December 30, 1971, the member is permitted to select Option C to provide an allowance for his/her spouse (this allowance would be paid instead of the \$6,000 allowance).

Return of Accumulated Deductions

Who would be eligible to receive the balance of a member's accumulated deductions?

Beneficiaries would not be entitled to a return of accumulated deductions unless the member had elected Option B on retirement. If the member did, the balance of accumulated deductions and related interest that remained on the member's death would be paid to the beneficiary or beneficiaries designated under Option B.

DEATH OF FIREFIGHTERS, POLICE OFFICERS, CORRECTIONS OFFICERS and PUBLIC PROSECUTORS IN THE LINE OF DUTY

Under what circumstances would a pension benefit be paid?

A firefighter's spouse will receive a pension benefit if the firefighter dies or sustains injuries which result in death while in the performance of his or her duties and as a result of an accident while responding to or returning from an alarm or fire or any emergency, or as the result of an accident involving a fire department vehicle which the firefighter is operating or in which the firefighter is riding, or while at the scene of a fire or any emergency.

A police officer's spouse will receive a pension benefit if the officer is killed or sustains injuries that result in death while in the performance of his or her duties and as a result of an assault on his/her person or an accident involving a police department vehicle that the officer is operating or in which the officer is riding.

A corrections officer's spouse will receive a pension benefit if the officer is killed or sustains injuries which cause death as a result of an assault while in the performance of his or her duties.

Pension Benefit

What is the amount of the pension?

Such spouses would receive a pension equal to the amount of regular compensation the member would have received had he/she been receiving the maximum salary for his/her position at the time of his/her death. Such a pension will be adjusted in accordance with any salary increases granted for the position.

If the spouse dies or remarries, then a surviving child or children will be eligible to receive 72% of the pension the spouse had been receiving on the date of remarriage or death as well as \$312 in additional pension per child. Children's eligibility will continue until age 18 or until age 21 if full-time students in an accredited educational institution and continue for children who are mentally and physically incapacitated from earning.

Return of Accumulated Deductions

Who will receive the member's accumulated deductions?

The accumulated deductions and related interest would be paid in one sum to the member's surviving beneficiary-of-record, or if there is no beneficiary living, then to the person or persons appearing in the judgment of the board to be entitled thereto.

Lump Sum Benefit

Under what circumstances are family members entitled to a lump sum benefit?

If a firefighter, public prosecutor, police officer or corrections officer is killed in the line of duty and as a result of incident, accident or violence or sustains injuries that are the direct and proximate cause of death, his/her family members are entitled to a one-time award of \$100,000.

Which family members would be entitled to this lump sum benefit?

The surviving spouse of such a firefighter, public prosecutor, police officer or corrections officer, or, if there is no surviving spouse, the child or children, or, if there is no surviving child, the parent or parents would be entitled to this benefit.

Who administers this benefit?

The State Board of Retirement administers and funds this benefit for all members, regardless of which retirement system a member is enrolled in at the time of death.

PENDING DETERMINATION OF ACCIDENTAL DEATH BENEFITS

If an individual dies as a member-in-service of causes that may be job-related, or if a member dies after retiring for accidental disability, are there benefits which his/her family may be eligible to receive while they await a decision about an accidental death benefit?

Yes, particular family members in a specified order of succession are eligible to elect to receive benefits during this period. For further information about eligibility, please refer to the Member-In-Service Accidental Death Survivor Benefits section of this booklet. An eligible family member, who files an application for an accidental death benefit, can opt to receive an allowance provided under Option D. Such an election must be made within one-year following the member's date of death.

In the event that the accidental death benefit is approved, the amount to be paid will be reduced by any interim benefits that have already been paid.

THIRD PARTY RECOVERY

Must recoveries be sought from “third parties” that cause disability or death to public employees?

Members or their beneficiaries, who are entitled to accidental disability or accidental death pension benefits, must exercise their rights to recover lost wages from such third parties. Amounts recovered on account of lost wages are offset against and therefore reduce pension benefits.

What happens if a member or beneficiary fails to fully prosecute such rights?

Boards shall prosecute such rights on a member's behalf. If a member or a beneficiary fails to cooperate with the board in its prosecution, the board may, during the period of such failure, suspend the member's or the beneficiary's rights to further payment.

APPEALS

Who has the right to appeal to CRAB and when must an appeal be filed?

Any person who is aggrieved by a decision of a retirement board or the Public Employee Retirement Administration Commission (PERAC) or by the failure of a board or PERAC to take action may appeal to CRAB. In some cases, appeal lies with the district court. (See discussion below.)

Appeals to CRAB must be filed within 15 days of the date that the board or PERAC acted or was supposed to act. If Chapter 32 does not specify a time within which a board or PERAC is required to act, an appeal of a failure to act must be filed within 15 days after the end of one month following the date that a written request to act was filed with the board or with PERAC.

Who are the members of CRAB?

The board consists of three members, an Assistant Attorney General, who acts as the chairman; a designee of PERAC; and a person appointed by the Governor. If the matter being considered by CRAB concerns a disability retirement, the Commissioner of Public Health or his designee substitutes for PERAC's designee.

How does this appeals process work?

Within a period of not less than 10 days or more than 60 days after the appeal is filed, CRAB must assign the matter to an Administrative Magistrate from the Division of Administrative Law Appeals. The Administrative Magistrate conducts a hearing and issues a written decision that shall become final and binding upon the board and all other parties. This decision shall be complied with unless, within 15 days, either party files a written objection to CRAB or CRAB orders in writing that it will review the decision of the administrative magistrate and take action it deems appropriate. CRAB's final decision may be appealed to the Superior Court.

KEY ADDRESSES AND PHONE NUMBERS

Public Employee Retirement Administration Commission

5 Middlesex Avenue, 3rd Floor
Somerville, MA 02145
(617) 666-4446

Contributory Retirement Appeal Board

100 Cambridge Street
Room 904
Boston, MA 02202
(617) 727-7060

Massachusetts Department of Revenue

100 Cambridge Street
Boston, MA 02204
Attention: Taxpayer Assistance
1-800-392-1040

Internal Revenue Service

Tax Payer Assistance:
1-800-829-1040

Social Security Administration

1-800-772-1213

Retirement Board:

Contact your personnel officer for the phone number and address of your retirement board.